

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION**

Pickens County Branch of the NAACP;

Rebecca Turner and Brandon Turner, on behalf of
minor children J.T. and G.T.;

Susanna Ashton and Peter Laurence on behalf of
minor children H.L. and C.L.;

Reba Kruse and Derrick Kruse on behalf of minor
children S.K. and R.K.,

Plaintiffs,

v.

School District of Pickens County,

Defendant.

Case No. 8:23-cv-01736-JDA

JOINT STATUS REPORT

As requested by the Court's text order of September 30, 2024 (ECF No. 53), the parties submit the following status report and proposed briefing schedule. In short, Plaintiffs intend to continue pressing the claim asserted in their Complaint, and Defendant intends to continue defending the case, including by refiling its Motion to Dismiss as proposed below.

Factual and Procedural Background

This proceeding arises from the School District of Pickens County's decision in September 2022 to remove the book *Stamped: Racism, Antiracism, and You* ("*Stamped*") from the curricula, library, and media centers of its schools. Plaintiffs allege this decision was motivated by the District Board's desire to suppress the expression and dissemination of ideas and opinions with which the Board disagreed. The District, in contrast, argues that the decision was motivated by legitimate pedagogical concerns about the book's academic rigor and educational suitability. Plaintiffs filed this suit on April 23, 2023, seeking declaratory and injunctive relief and asserting

a single cause of action alleging the District violated the First Amendment by restricting students' access to the viewpoints in *Stamped* because of the Board members' alleged opposition to or disapproval of those views.

On June 26, 2023, Plaintiffs moved for a preliminary injunction. The District opposed the motion.

On July 6, 2023, the Board voted to allow access to *Stamped* in the District's high school libraries, subject to parental consent. This decision mirrored a motion that was made during the Board meeting in September 2022.

On July 21, 2023, the Court denied Plaintiffs' motion (ECF 17 (Text Order)). Plaintiffs appealed and sought a summary disposition, arguing that the lower court's findings and conclusions were inadequate to allow substantive appellate review. The Fourth Circuit—without opining on the merits of Plaintiffs' suit or their motion for preliminary relief—summarily vacated the order and remanded for further proceedings.

On remand, the District Court requested, and the parties submitted, supplemental briefs in late 2023 to update the Court on any factual developments. The case was subsequently transferred to the Honorable Judge Austin in February 2024. Plaintiff's Motion for a Preliminary Injunction remained pending at that time, as did Defendant's Motion to Dismiss. Both were denied without prejudice in the Court's recent text order (ECF No. 53).

Factual Update

Since the last filings in this case nearly 11 months ago, the status quo has remained relatively unchanged. The Board's decision remains in place: *Stamped* cannot be used in the District's curricula and is only available to high school students in the library with parental permission. The following paragraphs describe two developments that are responsive to the

Court's request for "material developments" (ECF 53). That said, the parties do not agree about how, if at all, these development affect the case.

First, the six children on whose behalf this case was brought—all of whom are identified by their initials in the case caption and who are students of various grade levels in different schools in the District—are now a year and a half older and two grade levels higher than when they filed the case.

Second, the South Carolina Board of Education adopted a statewide policy governing the selection, review of, and challenges to books and other instructional material in the state's public schools. *See* S.C. Code of Regs. 43-170 ("Uniform Procedure for Selection or Reconsideration of Instructional Materials"). To the District's knowledge, the book *Stamped* has not yet been challenged or decided in this District or elsewhere under the new statewide standard established by Regulation 43-170.

Proposed Schedule for Next Steps

Plaintiffs intend to continue pressing the claims asserted in their Complaint, and Defendant will continue defending the case. The parties jointly suggest that the next step is for Defendant to refile an updated and revised Motion to Dismiss. The parties propose the following briefing schedule for Defendant's Motion to Dismiss:¹

- October 28, 2024: Defendant's Motion to Dismiss and Memorandum in Support
- November 18, 2024: Plaintiff's Response
- December 6, 2024: Defendant's Reply

¹ The parties believe these proposed deadlines will allow them adequate time to prepare and file the briefs; however, if circumstances require, they reserve the right to request extensions of time consistent with the Local Civil Rules and the Court's filing preferences.

Although they do not seek to do so at this juncture, Plaintiffs reserve the right, in their discretion, to refile their Motion for Preliminary Injunction. If they do, Defendants would oppose the Motion.

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Miles E. Coleman
Miles E. Coleman
Fed. ID No. 11594
2 West Washington Street, Suite 400
Greenville, SC 29601
miles.coleman@nelsonmullins.com
(864) 373-2300

Attorney for School District of Pickens County

Greenville, South Carolina
October 21, 2024

WE CONCUR:

ACLU OF SOUTH CAROLINA

/s Allen Chaney

Allen Chaney

Fed. ID 13181

P.O. Box 1668

Columbia, SC 29202

achaney@aclusc.org

NAACP

Janette Louard*

Anthony P. Ashton*

Quiana-Joy N. Ochiagha*

4805 Mt. Hope Drive

Baltimore, MD 21215

Tel: (410) 580-5777

jlouard@naacpnet.org

aashton@naacpnet.org

gochiagha@naacpnet.org

Attorneys for Plaintiffs